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California Department of Public Health



EDMUND G. BROWN JR.
Governor

May 2, 2016

AFL 16-04

TO: Home Health Agencies

SUBJECT: Fingerprint Submission and Criminal Background Check Requirements

AUTHORITY: Health and Safety Code (HSC) sections 1728.1(a)(2)(A) and 1735
Title 42 Code of Federal Regulation (CFR) sections 455.416(e)
and 455.434

All Facilities Letter (AFL) Summary

This AFL serves as a reminder and notice of impending action related to criminal record clearance requirements for owners and individuals operating home health agencies (HHA), licensed by the California Department of Public Health (CDPH or Department) and participating as a provider in the state Medicaid (Medi-Cal) program, Department of Health Care Services (DHCS).

In accordance with HSC section 1728.1(a)(2)(A), a criminal record clearance is required for the following:

- The owner or owners of a HHA if the owners are individuals
- If the owner of a HHA is a corporation, partnership or association, any person having a 10 percent or greater interest in that corporation, partnership, or association
- The administrator and administrator's designee of a HHA.

In addition, HHAs participating in the Medi-Cal program are subject to criminal background checks set forth in Title 42 CFR section 455.434. Federal law requires a provider or any person with a five percent or more direct or indirect ownership interest to consent to criminal background checks, including fingerprinting, when required by state law, or by the level of screening, based on the risk of fraud, waste, or abuse. HHAs are categorized as "high risk" providers for risk of financial fraud, waste, or abuse¹ and therefore are subject to criminal background check and fingerprinting requirements.

¹ <http://www.dhcs.ca.gov/provgovpart/Documents/Provider-Enrollment-Division-ACA-Implementation/SCREENING%20LEVELS%20BULLETIN%20November%202012.pdf>



Title 42 CFR section 455.416(e) requires termination or denial of enrollment if a provider or any person with a five percent or greater direct or indirect ownership interest in the HHA:

- Fails to submit fingerprints within 30 days of request;
- Fails to submit fingerprints in the format and manner requested;
- Has been convicted of a criminal offense related to that person's involvement with the Medicare, Medicaid, or Children's Health Insurance Program in the last 10 years.

AFLs 11-06 and 11-62 provide directions for submitting fingerprints to the Department. You may view the AFLs at:

<http://www.cdph.ca.gov/certlic/facilities/Pages/LnCAFL.aspx>.

This letter is a final request to individuals who have not yet submitted fingerprints to comply with statutory requirements. As prescribed by AFL 11-62, HHAs whose owners, administrators and/or administrator designees fail to submit fingerprints within 30 days of the date of this letter will be subject to termination of their Medi-Cal provider agreements by DHCS. Failure to comply with HSC section 1728.1(a)(2)(A) may result in revocation of the HHA's license by CDPH, in accordance with HSC section 1735.

If you have questions regarding the information contained in this AFL, please contact the Licensing and Certification Centralized Applications Unit at (916) 552-8632.

Sincerely,

Original Signed by Jean Iacino

Jean Iacino
Deputy Director